

LD 482

**Draft For Review by HCIFS Committee to Replace Concept Draft
Proposed by Sponsor, Sen. Sanborn**

**PROPOSED DRAFT COMMITTEE AMENDMENT REPLACING CONCEPT DRAFT:
LD 482, An Act Regarding Pet Insurance**

Amend the bill by striking everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. **24-A MRSA chapter 44** is enacted to read:

CHAPTER 44
PET INSURANCE

§3151. Short Title

This chapter may be known and cited as the “Pet Insurance Act.”

§3152. Scope and applicability

This chapter establishes requirements for the sale, solicitation, negotiation or offer of pet insurance in this State.

1. Applicability. The requirements of this chapter apply to pet insurance policies that are issued to any resident of this state, and are sold, solicited, negotiated, or offered in this state, and policies or certificates that are delivered or issued for delivery in this state.

2. General provisions of Title 24-A. All other applicable provisions of this Title apply to pet insurance, except that the specific provisions of this chapter supersede any general provisions of this Title that would otherwise be applicable to pet insurance.

§3153. Definitions

As used in this chapter, the following terms have the following meanings unless the context otherwise indicates.

1. Chronic condition. “Chronic condition” means a condition that can be treated or managed, but not cured.

2. Congenital anomaly or disorder. “Congenital anomaly or disorder” means a condition that is present from birth, whether inherited or caused by the environment, which may cause or contribute to illness or disease.

3. Hereditary disorder. “Hereditary disorder” means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

4. Pet insurance. “Pet insurance” means a property insurance policy that provides coverage for accidents and illnesses of pets.

5. Preexisting condition. “Preexisting condition” means any condition for which any of the following are true prior to the effective date of a pet insurance policy or during any waiting period:

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A. A veterinarian provided medical advice;

B. The pet received previous treatment; or

C. Based on information from verifiable sources, the pet had signs or symptoms directly related to the condition for which a claim is being made.

A condition for which coverage is afforded on a policy may not be considered a preexisting condition on any renewal of the policy.

6. Veterinarian. “Veterinarian” means an individual who holds a valid license to practice veterinary medicine from the appropriate licensing entity in the jurisdiction in which he or she practices.

7. Veterinary expenses. “Veterinary expenses” means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian.

8. Waiting period. “Waiting period” means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the policy can begin. Waiting periods may not be applied to renewals of existing coverage.

9. Renewal. “Renewal” means to issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same insurer or affiliated insurer and which provides types and limits of coverage substantially similar to those contained in the policy being superseded.

10. Orthopedic. “Orthopedic” refers to conditions affecting the bones, skeletal muscle, cartilage, tendons, ligaments, and joints. “Orthopedic” includes, but is not limited to, elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and ruptured cranial cruciate ligaments and does not include cancers or metabolic, hemopoietic, or autoimmune diseases.

11. Wellness program. “Wellness program” means a subscription or reimbursement-based program that is separate from an insurance policy that provides goods and services to promote the general health, safety, or wellbeing of a pet. If any wellness program undertakes to indemnify another, pays a specified amount upon determinable contingencies or provides coverage for a fortuitous event, it is transacting the business of insurance and is subject to the requirements of this Title, except that a contract directly between a service provider and a pet owner that only involves those two parties is not transacting the business of insurance unless other indications of insurance also exist.

§3154. Policy requirements and exclusions

1. Use of defined terms. If an insurer uses any of the terms that are defined in section 3153 in a pet insurance policy, the insurer shall use the definition of each of those terms as set forth in section 3153 and include the definition of those terms in the policy. The insurer shall also make the definition available through a clear and conspicuous link on the main page of the insurer or insurer’s program administrator’s publicly accessible website.

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2. Exclusions. This chapter does not prohibit or limit the types of exclusions an insurer may use in a pet insurance policy or require an insurer to include any of the limitations or exclusions described in section 3155.

§3155. Required disclosures

1. Disclosures. An insurer transacting pet insurance shall disclose to consumers:

A. If the policy excludes coverage due to any of the following:

- (1) A preexisting condition;
- (2) A hereditary disorder;
- (3) A congenital anomaly or disorder; or
- (4) A chronic condition;

B. If the policy includes any other exclusions, including the following statement: “Other exclusions may apply. Please refer to the exclusions section of the policy for more information”;

C. Any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit;

D. Whether the pet insurer reduces coverage or increases premiums based on the insured’s claim history, the age of the covered pet or a change in the geographic location of the insured; and

E. If the underwriting company differs from the brand name used to market and sell the product.

2. Right to examine and return a policy. Unless the insured has filed a claim under a pet insurance policy, an applicant for pet insurance has the right to examine and return a policy, certificate or rider to the insurer or the insurer’s producer within 15 days of its receipt and to have the premium refunded if, after examination of the policy, certificate or rider, the applicant is not satisfied for any reason. Pet insurance policies, certificates and riders must have a notice prominently printed on the first page or attached thereto including specific instructions for returning a policy. The following statement or language substantially similar must be included:

“You have 15 days from the day you receive this policy, certificate or rider to review it and return it to the company if you decide not to keep it. You do not have to tell the company why you are returning it. If you decide not to keep it, simply return it to the company at its administrative office or you may return it to the agent/insurance producer that you bought it from as long as you have not filed a claim. You must return it within 15 days of the day you first received it. The company will refund the full amount of any premium paid within 30 days after it receives the returned policy, certificate, or rider. The premium refund will be sent directly to the person who paid it. The policy, certificate or rider will be void as if it had never been issued.”

3. Basis for claims payments. An insurer shall clearly disclose a summary description of the basis or formula on which the pet insurer determines claim payments under a pet insurance policy within the

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policy, prior to issuance of the policy and through a clear and conspicuous link on the main page of the insurer or insurer's program administrator's publicly accessible website.

4. Use of benefit schedule. An insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall do the following:

A. Clearly disclose the applicable benefit schedule in the policy; and

B. Disclose all benefit schedules used by the insurer under its pet insurance policies through a clear and conspicuous link on the main page of the insurer or insurer's program administrator's publicly accessible website.

5. Fees. An insurer that determines claim payments under a pet insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary service provider charges, shall do the following:

A. Include a usual and customary fee limitation provision in the policy that clearly describes the pet insurer's basis for determining usual and customary fees and how that basis is applied in calculating claim payments; and

B. Disclose the insurer's basis for determining usual and customary fees through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's publicly accessible website.

6. Medical examination. If any medical examination by a licensed veterinarian is required to effectuate coverage, the insurer shall clearly and conspicuously disclose the required aspects of the examination prior to purchase and disclose that examination documentation may result in a preexisting condition exclusion.

7. Waiting period. Any waiting periods and any applicable requirements must be clearly and prominently disclosed to consumers prior to the policy purchase.

8. Summary of policy provisions. The insurer shall include a summary of all policy provisions required in this subsection in a separate document titled "Insurer Disclosure of Important Policy Provisions." The insurer shall post the "Insurer Disclosure of Important Policy Provisions" document required in this subsection through a clear and conspicuous link on the main page of the insurer or insurer's program administrator's publicly accessible website. In connection with the issuance of a new pet insurance policy, the insurer shall provide the consumer with a copy of the "Insurer Disclosure of Important Policy Provisions" document required in this subsection in at least 12-point type upon delivery of the policy.

9. Written disclosure. At the time a pet insurance policy is issued or delivered to a policyholder, the insurer shall include a written disclosure with the following information, printed in 12-point boldface type:

A. The bureau's mailing address, toll-free telephone number and link to its publicly accessible website;

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B. The address and customer service telephone number of the insurer or the producer of record;
and

C. If the policy was issued or delivered by a producer, a statement advising the policyholder how
to contact the producer for assistance.

10. Additional disclosures. The disclosures required in this section are in addition to any other
disclosure requirements required by law or regulation.

§3156. Policy Conditions

1. Exclusion. An insurer may issue a pet insurance policy that excludes coverage on the basis of
one or more preexisting conditions with appropriate disclosure to the consumer. The insurer has the burden
of proving that the preexisting condition exclusion applies to the condition for which a claim is being made.

2. Limit on waiting periods. An insurer may issue a pet insurance policy that imposes a waiting
period upon effectuation of the policy as long as that waiting period does not exceed 30 days for illnesses
or orthopedic conditions not resulting from an accident. Any waiting period for illnesses or orthopedic
conditions resulting from an accident is prohibited.

A. An insurer utilizing a waiting period as permitted by this subsection shall include a provision in
its contract that allows the waiting period to be waived upon completion of a medical examination.
An insurer may require the examination to be conducted by a licensed veterinarian after the
purchase of the policy.

(1) A medical examination conducted pursuant to this paragraph must be paid for by the
policyholder, unless the policy specifies that the insurer will pay for the examination.

(2) An insurer may specify elements to be included as part of the examination and require
documentation thereof, provided the specifications do not unreasonably restrict a
consumer's ability to waive the waiting period.

B. An insurer shall clearly and prominently disclose any waiting periods and applicable
requirements to a consumer prior to the purchase of a pet insurance policy.

3. Renewal. An insurer may not require a veterinary examination of the covered pet for the insured
to have their pet insurance policy renewed.

4. Other benefits. If an insurer includes any prescription, wellness, or non-insurance benefits in
the policy form, then those benefits become part of the policy contract and the provision of those benefits
must follow all applicable laws in this Title and any rules adopted pursuant to those laws.

5. Participation in wellness program. An insurer may not condition a person's eligibility to
purchase a pet insurance policy on participation, or lack of participation, in a separate wellness program.

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§3157. Sales practices for wellness programs

1. Marketing. An insurer or insurance producer may not:

A. Market a wellness program as pet insurance;

B. Market a wellness program during the sale, solicitation, or negotiation of pet insurance.

2. Sale of wellness program. If a wellness program is sold by an insurer or insurance producer, the following requirements apply.

A. The purchase of a wellness program may not be a requirement of the purchase of pet insurance.

B. The costs of a wellness program must be separate and identifiable from any pet insurance policy sold by an insurer or insurance producer.

C. The terms and conditions for a wellness program must be separate from any pet insurance policy sold by an insurer or insurance producer.

D. The products or coverages available through a wellness program may not duplicate products or coverages available through the pet insurance policy.

E. The advertising of a wellness program may not be misleading and must be in accordance with section 3158, subsection 2.

3. Disclosure. An insurer or insurance producer shall clearly disclose the following to consumers, printed in 12-point boldface type:

A. That wellness programs are not insurance;

B. The bureau's mailing address, toll-free telephone number and link to its publicly accessible website; and

C. B. The address and customer service telephone number of the insurer or the producer of record.

4. Wellness benefits. Any coverages included in a pet insurance policy contract described as "wellness benefits" are considered insurance.

§3158. Insurance Producer Requirements

1. Training. An insurance producer may not sell, solicit, or negotiate a pet insurance product until after the producer is appropriately licensed and has completed the required training identified in subsection 2.

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2. Requirements. An insurer shall ensure that any producer holding an appointment has been appropriately trained on the features of any pet insurance product. The training required under this subsection must include information on the following topics:

A. Preexisting conditions and waiting periods;

B. The differences between pet insurance and non-insurance wellness programs;

C. Hereditary disorders, congenital anomalies or disorders, and chronic conditions and how pet insurance policies interact with those conditions; and

D. Rating, underwriting, renewal, and other related administrative topics.

§3159. Enforcement

The superintendent may assess civil penalties or take any other action permitted under section 12-A against any person who violates any provision of this chapter.

§3160. Rules

The superintendent may adopt rules to implement this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This amendment replaces the bill, which was printed as a concept draft pursuant to Joint Rule 208.

The amendment enacts requirements for the sale of pet insurance in this State, using the draft model “Pet Insurance Act” developed by the National Association of Insurance Commissioners.